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hmcpeake@goodwinprocter.com

glenn.williams@goodwinprocter.com



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/081,411
Filing Date: February 20, 2002
Appellant(s): SCHNEUR ET AL.

Emptoris, Inc.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 07/09/2009 appealing from the Office action mailed 01/02/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. The 101 rejection to claims 8-14 and 19-20 has been withdrawn.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2003/0004850

Li

01-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Li et al., US PG. Pub. No. (2003/0004850) referred to hereinafter as Li.

As per claims 1, Li teaches a computer-implemented method for determining an optimal award schedule for satisfying a purchase requisition, the method comprising: receiving over a computer network, from each of a plurality of candidate suppliers, a corresponding plurality of bids (Abstract, Para 0005); receiving, from a candidate supplier over said computer network, an explicit offer of a business-volume discount that is triggered when a purchase from the candidate supplier of at least one unit of a first qualifying item and at least one unit of a second qualifying item has an aggregated

volume within a defined volume interval (see at least Para 0114, 0014 0038); and determining by a processor an optimal award schedule comprising an optimal combination of suppliers and a list of items to be ordered from each supplier to at least partially satisfy the purchase requisition utilizing the explicit offer of a business volume discount (see at least Abstract, Para 0006, 0016 and 0064).

As per claim 2, Li teaches a method of claim 1, wherein receiving a business-volume discount offer comprises receiving a business-volume discount offer in which a business-volume discount is triggered on the basis of purchases of items belonging a first category of items and no business-volume discount is triggered on the basis of purchases of items belonging to a second category of items (see at least Abstract, Para 0006, 0016 and 0064).

As per claim 3, Li teaches a method of claim 2, wherein receiving a corresponding plurality of bids comprises receiving, from the at least one candidate supplier, a first bid in which each item recited in the first bid belongs to no more that one item-category (see at least Para 0097, 0129, 0131).

As per claim 4, Li teaches a method of claim 2, wherein receiving a corresponding plurality of bids comprises receiving, from the at least one candidate supplier, a first bid in which at least one item recited in the first bid belongs to both a first item-category and a second item-category (see at least Para 0097).

As per claim 5, Li teaches a method of claim 4, wherein determining an optimal award schedule comprises constraining the optimal award schedule such that a purchase of the at least one qualifying item contributes to a business volume discount

associated with at most one of the first and second item-categories (See at least Para 0014 and 0064).

As per claim 6, Li teaches a method of claim 1, wherein receiving an offer of a business-volume discount comprises receiving a business-volume discount offer that defines a plurality of volume intervals, each of the volume intervals being associated with a corresponding discount to be offered when the volume of an aggregate purchase of at least two qualifying items from the at least one candidate supplier is within the volume interval (see at least Para 0114).

As per claim 7, Li teaches a method of claim 1, wherein receiving an offer of a business-volume discount comprises receiving a business-volume discount offer in which the defined volume interval has a lower bound defined by a volume threshold and no upper bound (see at least Para 0114).

As per claim 15, Li teaches a method of claim 1 further comprising imposing, by a party other than a candidate supplier, a private buyer constraint prior to determining the optimal award schedule (See at least Para 0019, 0062-0065, 0077-0078).

As per claim 16, Li teaches a method of claim 15 further comprising changing an imposed private buyer constraint and redetermining the optimal award schedule using the changed private buyer constraint (see at least Para 0065).

As per claim 17, Li teaches a method of claim 1 further comprising storing a supplier profile corresponding to a candidate supplier (see at least Para 0079-0080, 0103).

As per claim 18, Li teaches a method of claim 17 wherein determining an optimal award schedule considers a stored supplier profile corresponding to a candidate supplier (see at least Para 0104).

As per claims 8-14 and 19-20, the limitations of claims 8-14 and 19-20 are similar to the limitations of claims 1-7 and 15-18.

(10) Response to Argument

The examiner summarizes the various points raised by the appellant and addresses them individually.

As per Appellant's arguments filed 07/09/2009, the appellant argues:

A) The appellant is traversing the 101 rejection in the previous office action (**see AB Page 5**).

In response to A) this argument is moot due to the 101 rejection being withdrawn by the examiner, see above.

B) Li Fails to teach, "determining by a processor an optimal award schedule comprising an optimal combination of suppliers and a list of items to be ordered from each supplier to at least partially satisfy the purchase requisition utilizing the explicit offer of a business volume discount" (**see AB page 6**).

In response B) the examiner respectfully disagrees. Li teaches determining by a processor an optimal award schedule comprising an optimal combination of suppliers and a list of items to be ordered from each supplier to at least partially satisfy the purchase requisition utilizing the explicit offer of a business volume discount (see at least Para 0114-0117, 0124-0128, 0096, 0097, 0011-0014 and 0006-0007, and claims

1, 7, 27, 33, 38 40, 42). Therefore Li meets the scope of the limitation as currently claimed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/MUSSA SHAAWAT/
Examiner, Art Unit 3627

Conferees:

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627

/Matthew S Gart/

Supervisory Patent Examiner, Art Unit 3687